

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ROBERT FLETCHER, ) 4:05CV5024  
                      )  
                       )  
Plaintiff,         )  
                      )  
                       )  
v.                   ) **MEMORANDUM**  
                      )  
                       )  
BROWN COUNTY, et al., ) **AND ORDER**  
                      )  
                      )  
Defendants.        )

This matter is before the court for resolution of a second dispute which arose during a deposition taking place today in Cherry County, Nebraska. The parties sought an immediate ruling on the dispute via telephone. Neither Magistrate Judge Piester nor Judge Bataillon were available for an emergency telephonic hearing.

At Judge Bataillon's request, I held a telephonic hearing in this matter as the Supervising Pro Se Judge. Present by telephone were counsel for defendants Charles Campbell, pro se plaintiff Robert Fletcher, deponent Eric Scott, and court reporter Tracy Jessel.

Condensed and summarized, this dispute involves questioning by pro se plaintiff Robert Fletcher to a party deponent, defendant Eric Scott. Mr. Scott is the Cherry County Attorney. Mr. Fletcher questioned Mr. Scott extensively about previous prosecutions of Mr. Fletcher by Mr. Scott over the past five years.

Defendant's counsel objected to these questions, again based on the court's previous orders limiting discovery to issues regarding qualified immunity. (Filing Nos. 104 and 210.) Specifically, counsel for Mr. Scott argued that discovery regarding previous prosecutions of Mr. Fletcher was irrelevant to the issue of qualified immunity and to the claims made against Mr. Scott in this matter. Mr.

Fletcher argued that he was entitled to the discovery into Mr. Scott's previous prosecutions of him because such prosecutions show the bias and prejudice of Mr. Scott and are evidence of the type of unlawful conduct which negates the defense of qualified immunity.

Having heard the parties' arguments, I find that limited discovery relating to the previous prosecutions should be permitted. I will allow the plaintiff to make a short, general inquiry into the basis for the previous prosecutions. Accordingly,

IT IS ORDERED that:

1. Limited discovery by Plaintiff Robert Fletcher regarding the five previous criminal prosecutions of him by Mr. Scott shall be permitted. Such questioning shall last no longer than 15 minutes and shall generally relate to why the criminal matters were filed and dismissed. As agreed to by Ms. Jessel, the court reporter shall time the questioning.
2. In the event that Plaintiff does not comply with this order, the deposition will be terminated and no additional discovery will be permitted.

September 13, 2007.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge  
Supervising Pro Se Judge